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Report of the Special Rapporteur on the human rights of internally displaced persons on her mission to the Niger

Note by the Secretariat

The Special Rapporteur on the human rights of internally displaced persons, Cecilia Jimenez-Damary, paid an official visit to the Niger from 18 to 24 March 2018, at the invitation of the Government and pursuant to her mandate set out in resolution 32/11 of the Human Rights Council.

The Niger is facing a humanitarian upheaval and a growing internal displacement crisis in the vicinity of its borders with Mali and Nigeria. While the Government of the Niger has responded to the extent that its limited resources and capacity permit, more concerted efforts are needed at the institutional and legislative levels. The Special Rapporteur encourages the Government of the Niger to draw lessons from the situation in Diffa and urgently to develop a strategy for the comprehensive protection of and assistance to internally displaced persons, in particular in Tillabéri. The Special Rapporteur encourages the international community to work together with the Niger in a dependable manner with a view to resolving the crisis of internal displacement in the country.

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* Circulated in the language of submission and English only.

I. Introduction

1. In accordance with the mandate entrusted to her by the Human Rights Council in its resolution 32/11, and at the invitation of the Government of the Niger, the Special Rapporteur on the human rights of internally displaced persons, Cecilia Jimenez-Damary, undertook an official visit to the Niger from 19 to 24 March 2018 to investigate the situation of internally displaced persons in the country.

2. The main objectives of the visit were to collect first-hand information on the situation of internally displaced persons, the difficulties encountered in protecting them, and the challenges and opportunities arising in finding sustainable solutions. The Special Rapporteur also wished to engage in a dialogue with the representatives of the Government and local authorities on the legislative and institutional measures that have been put in place to respond to internal displacement.

3. During her visit, the Special Rapporteur had meetings with the Secretary-General of the Ministry of Justice and Human Rights; the Secretary-General of the Ministry of Internal Affairs, Public Security, Decentralization and Customary and Religious Affairs; the Minister of Humanitarian Action and Disaster Management; officials of the Directorate-General for Civil Registration, Migration and Refugees; the steering committee for the drafting of a bill on internally displaced persons; the National Human Rights Commission; United Nations agencies and non-governmental organizations. She also had meetings with the local authorities in the regions of Diffa and Tillabéri, including representatives of regional directorates, the governors of those two regions, and the prefects and mayors of Banibangou and Ayorou in Tillabéri region and representatives of the defence and security forces deployed in that region. She also had meetings with recently displaced persons in Tillabéri region and visited internal displacement sites in Diffa region, in order to gain a better understanding of their circumstances, their specific needs, their concerns relating to protection and their expectations. She regrets not having been able to visit other internal displacement sites in the regions of Tillabéri and Diffa owing to security considerations at the time of the visit.

4. The Special Rapporteur expresses her sincere gratitude to the Government of the Niger and to local authorities for their full cooperation both before and during the visit. She looks forward to the continuation of a fruitful dialogue with the Government and other stakeholders on the implementation of the recommendations set out in the present report. She would also like to thank all her interlocutors, in particular the internally displaced persons themselves, who were kind enough to share their experiences, needs and aspirations for the future.

5. The Special Rapporteur also wishes to thank the Resident Coordinator and Humanitarian Coordinator for the United Nations in the Niger, the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Office of the United Nations High Commissioner for Refugees (UNHCR), who spared no effort in making the necessary organizational and material preparations for her visit and ensuring its smooth conduct. She would also like to thank the country team for humanitarian action and the members of the Working Group on Protection (Protection Cluster) for their cooperation and sharing of information during her visit.

6. In the present report, the Special Rapporteur focuses on the situation of internally displaced persons in Diffa region, in the south-east of the Niger, and the latest situation in Tillabéri region, in the west along the border with Mali.

II. Background

7. For several decades, the situation in the Niger has been characterized by multiple instances of vulnerability that have given rise to substantial humanitarian needs. Ranked 187th out of 188 countries on the human development index of the United Nations Development Programme (UNDP) in 2016, with the highest fertility rate in the world (7.6

children per woman), the Niger is faced with various problems: malnutrition, limited access to education and health care, epidemics, food insecurity and natural disasters.

8. A number of security and humanitarian crises have also led to population movements, including the current crisis of displacements across its borders with Mali and Nigeria. Before the first attacks by the non-State armed group Boko Haram within the territory of the Niger in February 2015, in the Diffa region, the Niger had not experienced conflict-related internal displacement.

9. Prior to the current conflict, there was already an environmental crisis in the Diffa region, with extreme aridity in the south-east of the country, two thirds of which is affected by desertification, an issue which is exacerbating the existing pressures on food security. The drying up of Lake Chad, which has lost 90 per cent of the surface area that it covered in 1960, has also reduced earnings from fishing and access to water.

10. Added to these environmental data are local demographic data that reflect a further element of vulnerability. Indeed, Diffa, together with Zinder, is the region of the Niger with the fastest population growth, at a rate of 4.7 per cent, which means that the current population of Diffa will double about every 15 years.

11. The Niger has 85,847 displaced children, more than 66 per cent of the country's internally displaced population.[1] Over the course of its history, however, Diffa has suffered from a lack of infrastructure and qualified teaching staff, and the situation has been further exacerbated by the recent security issues and the influx of displaced populations.

12. More recently, the Niger, already weakened by the crisis in the Lake Chad basin and the large movements of people crossing the frontier area with Mali, felt the direct effects of the crisis in Mali in the provinces of Tillabéri and Tahoua. A region irrigated by the Niger river, Tillabéri is particularly vulnerable to drought, flooding and epidemics and has suffered the consequences of the crisis in Mali, with the influx of refugees and the growing movements of internally displaced persons placing further strains on an already fragile economy. Road infrastructure problems are exacerbating the isolation of the region and making the delivery of commercial and humanitarian supplies more difficult to plan. Lastly, the region is affected by the process of desertification, which is further undermining agricultural production and food security.

13. Over the past few months the defence and security forces have been imposing very strict security measures in the Tillabéri region as they wage an armed struggle against non-State groups mounting regular attacks in the area. The civilian population, caught in a stranglehold in this confrontation, suffers most from these measures and the effects of the state of emergency in force since March 2017. The impact is also felt by the humanitarian community, whose access to this conflict zone is restricted for security reasons. With the imminent deployment of regional forces of the Group of Five for the Sahel (Sahel G-5) on both sides of the frontier, the humanitarian impact on civilian populations is cause for even greater concern, as both sides are likely to view them as being allied to the enemy that they are fighting.

14. In a region where access to public services, including primary health care, is uncertain and where there are risks of epidemics, an even more complicated scenario is likely to emerge in the coming months for the most vulnerable civilian populations, caught up in a military operation that could cause further displacement.

A. Causes of internal displacement

15. The ongoing state of insecurity both within and between the neighbouring countries of the Lake Chad basin, linked to attacks by Boko Haram, has led to forced displacements of populations, both cross-border and internal. In the Niger, these displacements are mostly concentrated in the Diffa region. On 6 February 2015, the towns of Bosso and Diffa were

[1] Regional Directorate of Civil Registration and Refugees, October 2017, covering 97 sites. Cited in *Niger: Humanitarian Situation Report*, UNICEF, November 2017.

subjected to heavy attacks by Boko Haram, causing a first wave of internal displacement. On 20 February 2015, the village of Karamga, on the islands of Lake Chad, was attacked by Boko Haram, which killed soldiers from the Niger and caused population displacements. Following these events, on 28 April 2015, the Governor of Diffa gave orders that people from those islands of Lake Chad belonging to the Niger should be evacuated to the mainland within 72 hours. According to official government figures, some 30,000 people reached the mainland under difficult conditions. On 17 June 2015, two villages bordering the Komadougou river in the municipality of Gueskerou were attacked simultaneously by Boko Haram fighters, resulting in the death of 29 persons in Lamana and 11 persons in Ngoumao and displacing more than 8,000 people, who reportedly found refuge in the Assaga site. In November and December 2015, the populations of several villages in the municipality of Chétimari were moved to the Boudouri, Gamari and N'Gourtoua sites, after raids followed by looting and burning. In 2016, an attack launched on Yébi in May and then another in June on Bosso, which was being attacked for the second time, triggered the mass displacement of persons to the Garin Wanzam site. In June and July 2017, two other major attacks were launched on the camp for internally displaced persons in Kablewa and on N'Galewa village (2 killed, 11 injured, 39 women and children abducted, and more than 16,000 persons displaced).

16. The security situation in the regions of Tillabéri and Tahoua gets worse every day. At the end of January 2018, for the first time, people were displaced in the Tillabéri region, following an attack that resulted in the death of one civilian and the abduction of two others. These movements of people are preventive measures taken in the face of threats from non-State armed groups operating in the border areas.

B. Current situation of internally displaced persons

17. On 31 October 2017, according to official government figures, in the Diffa region there were 129,015 internally displaced persons, spread across 149 sites,[2] mostly along national road 1 connecting the capital Niamey to Nguigmi. According to a study conducted in November 2017,[3] in 93 per cent of the 121 sites for which data were provided, the majority of internally displaced persons had spent more than one year in the site where they were residing. According to the same study, in 55 per cent of the sites, at least some of the displaced persons present had been displaced prior to their arrival at the site in which they were currently residing, which demonstrates how much movement there is in this traditionally highly mobile region. The fact that there are so many displacements suggests that people tended to move first to a place relatively close to their home village before moving to a new and more distant location if the living or security conditions were not satisfactory. Added to that, some internally displaced persons also shuttle back and forth to their villages of origin. Thus, in January and February 2018, 1,257 people were reported to have left the displacement sites in the Gueskerou, Kablewa, Bosso, Toumour and Nguigmi municipalities.

18. These movements, stemming from the difficult living conditions for displaced persons in the sites, are difficult to control. This situation is all the more troubling given that access to the islands of Lake Chad is officially prohibited. Furthermore, by returning to the islands, these people are deprived of access to immunization, which creates a risk of epidemics. Despite a recent overall reduction in the number of security incidents, the month of January 2018 has seen a resurgence of Boko Haram attacks in the Diffa region. This ever-present threat means that the estimated 130,000 internally displaced persons in the area are likely to remain in a situation of protracted displacement.

19. The situation in the Tillabéri region is very volatile and rapidly changing, making it difficult to estimate the number of internally displaced persons there. While in the Diffa

[2] Regional Directorate of Civil Registration and Refugees, October 2017, covering 97 sites. Cited in Niger: Humanitarian Situation Report, UNICEF, November 2017.

[3] REACH initiative and Diffa Working Group on Protection: Final evaluation of the situation regarding the protection of displaced populations in Diffa region, November 2017.

region the Government is collecting data on the number of internally displaced persons through the Regional Directorate of Civil Registration and Refugees, at the time of the Special Rapporteur's visit a system of this kind had not yet been put in place for the Tillabéri region. At the time of drafting of the present report, according to reports provided in March 2018 by the Niger Association for the Treatment of Delinquency and Crime Prevention (ANTD), a local non-governmental organization, over 8,000 people had been displaced across five sites in the departments of Banibangou and Ayorou. Among the recently displaced persons in Ayorou department, 40 per cent are children aged 0–13, and more than 50 per cent are women and girls.

III. Framework for the protection of and assistance to internally displaced persons

20. In order to tackle the situation of internally displaced persons, the authorities of the Niger and the country's humanitarian agencies have implemented measures to provide a more coordinated and holistic response. The Special Rapporteur encourages the continuation of such efforts.

A. Responses by the authorities of the Niger

Institutional framework

21. Several government institutions have been assigned different roles to respond to the needs and ensure the protection of internally displaced persons, both at the national and regional levels, and their responses are commensurate with their limited resources and capacities. Following the regional dialogue on protection, held in 2016, and the adoption of the Abuja Action Statement,[4] the Government of the Niger committed itself, among other things, to developing a plan of action on protection in the Lake Chad region, with the support of UNHCR.

22. The Ministry of Humanitarian Action and Disaster Management, established in 2016 on the basis of the former Humanitarian Coordination Unit, is one of the institutions entrusted with responding to the situation of internally displaced persons. With its regional counterparts, it is at the forefront of the Government's response to the humanitarian crisis. This Ministry's responsibilities include: coordinating responses at the national level with the other ministries and bodies involved in preparing contingency plans and action plans; ensuring cross-sectoral coordination with national institutions (ministries, regions and subregions) and agencies involved in humanitarian action and disaster management; conducting surveys and assessments to diagnose humanitarian emergencies and disasters, assess needs and provide preliminary responses; developing and implementing projects to support the reception and reintegration of returnees and repatriated persons, internally displaced persons and host populations; and, in conjunction with the relevant ministries, managing the camps for refugees and internally displaced persons in the Niger.

23. The Directorate-General of Civil Registration, Migration and Refugees, under the authority of the Ministry of Internal Affairs, Public Security, Decentralization and Customary and Religious Affairs, is responsible for the civil registration of internally displaced persons and refugees, for the collection of data on such persons and, to the extent possible, for the issuance of documents. This Directorate has a representative in the Diffa region who works through the Regional Directorate of Civil Registration and Refugees and prepares and issues quarterly updates on the number of refugees, Niger nationals repatriated from Nigeria and internally displaced persons in the Diffa region.

24. At the national and regional levels, the Directorate for the Advancement of Women and Protection of Children, which comes under the Ministry of that name, is involved in the response to the specific needs of internally displaced women and children. Its regional

[4] https://data2.unhcr.org/en/documents/download/49363.

counterpart in the Diffa region heads the Working Group on Protection and the working groups that report to it on sexual and gender-based violence and child protection. This regional directorate is responsible for conducting awareness-raising campaigns, identifying cases of gender-based violence and violations of the rights of the child, and reporting such cases to partners for them to make the necessary response.

25. The National Human Rights Commission of the Niger, a national human rights institution accredited with "A" status, has been able, despite severe financial constraints, to set up regional offices in Diffa and Tillabéri as a matter of priority, to allow for local responses to the human rights challenges posed by internal displacement. The Commission has an important role to play in the promotion and protection of the rights of internally displaced persons, dealing with complaints and investigations, providing training on international instruments that deal with the protection of the rights of displaced persons and drafting a law on the protection of and assistance to internally displaced persons. Having agreed to the establishment of this Commission, the Niger must ensure that it receives lasting support through the provision of the necessary resources and means to accomplish its objectives.

26. The Governor of Diffa, the governmental authority in the region, has established thematic working groups, modelled on the cluster approach to humanitarian assistance of the United Nations system. These thematic groups are led by the Government's regional counterparts.

27. According to figures from the 2018 humanitarian response plan, coordinated by the United Nations, in the Niger, 2.3 million people were found to be vulnerable and in need of humanitarian assistance; of these, 1.8 million need to be placed under the responsibility of humanitarian agencies. It has been calculated that catering to the needs of the remaining individuals would entail a cost to the Government of approximately 142 billion CFA francs. The Niger has already set aside 29 billion CFA francs for this purpose in its 2018 budget and is counting on donors to fund the balance.

28. Despite the commitment of the central Government to tackling the problem of internal displacement, the decentralized system of governance means that responsibility for the response to this problem rests with the regional directorates. With only one or two persons at their head, however, these bodies lack the financial and human resources needed to ensure an adequate and effective response, creating a disconnect between national and local levels. The Special Rapporteur encourages the Government of the Niger to allocate a larger portion of its annual budget to regional capacity-building.

29. Despite an apparently clear division of institutional responsibilities relating to internal displacement, the proliferation of these institutions and the failure by the Ministry to ensure firm leadership of humanitarian action and disaster management mean that the responses to internal displacement are somewhat fragmented. The Special Rapporteur, in line with the recommendations made by her predecessor on governance structures,[5] encourages the Government to designate a single focal point for the response to internal displacement.

Legislative framework

30. The key elements of a national response that adequately and effectively deals with the issue of internal displacement are lacking in the Niger because the country does not have a legislative framework consistent with international standards, including the 1998 Guiding Principles on Internal Displacement and the 2009 African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (hereinafter referred to as the Kampala Convention). Accordingly, the Government is operating in a legal vacuum. A legislative framework is therefore urgently required to incorporate the rights of internally displaced persons and the obligations of the national authorities in domestic law, and to clarify the roles and responsibilities of the various agencies and ensure coordination

[5] See A/70/334.

between these bodies. Budgetary allocations must also be drawn up and guaranteed for the conduct of humanitarian and development initiatives.

31. In this spirit, the Special Rapporteur welcomes the ratification of the Kampala Convention by the Niger in 2012. She recalls that article 3.2 of the Convention requires States parties to incorporate its provisions into their domestic law. At the time of the visit of the Special Rapporteur, there was still no such framework. Following a workshop on the laws and policies relating to internal displacement organized in December 2017 by the Ministry of Humanitarian Action and Disaster Management, with support from UNHCR, an interministerial steering committee was set up to draft a bill for the implementation of the Kampala Convention. The Special Rapporteur strongly commends these efforts, while urging the Government to furnish the committee with the necessary means to perform its mission and to ensure the prompt adoption of the bill by parliament.

32. In the light of the multiple causes of displacement in the Niger, including recurring natural disasters, the Special Rapporteur encourages the steering committee to work on a bill that would cover all the causes and all phases of displacement, from prevention to durable solutions. She welcomes the planned participatory approach and stresses that internally displaced persons must be consulted in all initiatives relating to their situation.

33. During her mission, the Special Rapporteur was often told that the Niger lacked the experience to manage humanitarian crises and displacement on such a scale. The experience of Diffa since 2015 should, however, furnish the Government with guidance on the measures to be taken in response to the Tillabéri crisis, where the first population movements occurred at the end of January 2018, despite the fact that the Government has not yet established a comprehensive strategy for the protection of internally displaced persons and provision of assistance to meet their specific needs. This lack of governmental vision also leaves humanitarian workers sitting on their hands, owing to the lack of an operational framework. Many internally displaced persons have expressed the wish that the authorities should go themselves to see the situation on the ground and the needs of affected communities, including in Tillabéri. In some areas, however, the local people seem to be terrorized by armed attacks and fear visits by municipal authorities lest they be associated with these authorities and, in retaliation, become targeted to an even greater extent by non-State armed groups. The Special Rapporteur emphasizes the essential need for the Government to develop a clear strategy for the provision of protection and assistance to internally displaced persons, based on their specific needs, to expedite its responses, to allocate additional resources and to devote more attention to this constantly evolving crisis. A multidisciplinary and multi-organizational team could be established to support the Government and provide technical assistance with a view to ensuring an appropriate response to the displacement situation in Tillabéri.

B. Response of the international community

34. Without any question, the Niger has neither the capacity nor the resources to manage the crisis of internal displacement on its own. The international community has an essential role to play in this regard.

35. United Nations humanitarian arrangements were put in place with the launch of clusters in Diffa in 2010 to respond to the crisis caused by the floods hitting the region. While welcoming the efforts and the significant achievements of the humanitarian country team, the Special Rapporteur emphasizes the essential need, three years after the start of the crisis, for the urgent adoption of a protection strategy. This also requires more sustained efforts to integrate issues of internal displacement and protection across all sectors, including those of food security, nutrition, health, education, shelter and water, hygiene and sanitation. In that context, most of the existing clusters should be strengthened immediately, including by ensuring that the cluster coordinators devote at least half of their time to the clusters, in order to ensure adequate assistance. The Working Group on Protection should continue to be strengthened, given the significant progress that has been made since the appointment of a dedicated coordinator in the working group, including in the areas of information collection, and the analysis and definition of objectives and strategies.

36. At this critical juncture, the Special Rapporteur calls upon the international community and donors to increase their support to the Niger, since it is facing a worsening humanitarian and displacement crisis owing, among other factors, to the constantly worsening security situation, the emergence of multiple crises in Diffa, Tillabéri and Tahoua, and overlapping chronic and acute vulnerabilities. According to the 2018 humanitarian response plan, the number of people in need has risen to 2.3 million, an increase of 400,000 persons compared with the humanitarian response plan for 2017. The needs analysis shows the persistence of five major crises: food insecurity, malnutrition, epidemics, floods and population movements. Nutrition indicators have deteriorated significantly, with more than 1.7 million people in need, 250,000 more than in 2017. In addition, now that the Working Group on Protection has extended its activities across the entire country, it is encountering needs three times greater than in 2017, when only Diffa region was covered. In 2017, while funding was provided for some 80 per cent of the estimated needs of the humanitarian response plan, funding for protection was only at the level of 18 per cent. This significant lack of funding is hindering the efforts of protection agencies and should be remedied as a matter of priority. The 2018 humanitarian response plan needs $338 million, including $163 million for Diffa region. The Special Rapporteur encourages the international community and donors to mobilize their resources and provide generous support for this plan. The Niger must not be forgotten, and the international community cannot turn its back on the situations of internal displacement, whether these are new or the continuation of existing situations, in Tillabéri and Diffa.

37. Thus, while is it essential to step up the response in order to ensure short-term assistance, resources should also be provided to address the longer-term challenges of finding lasting solutions for internally displaced persons beyond the emergency response phase.

IV. Main problems affecting internally displaced persons

A. Living conditions and access to basic services

38. During her visit, the Special Rapporteur was able to speak with internally displaced persons. In the Tillabéri region, she had the opportunity to meet representatives of recently displaced persons to ascertain their principal needs and concerns. Their main grievances related to access to basic necessities, including food, adequate shelter, health care and education. Since Inatès market, which is very close to the border with Mali, has been shut down for security reasons, displaced persons must make the arduous journey to Ayorou market, lying 85 km from Inatès. There has been a unanimous and urgent plea for food and medical assistance.

39. The Special Rapporteur also visited displacement sites in Diffa region, where internally displaced persons and host communities are struggling to meet their basic needs, including health care and education. During her visit to the sites, one of the main challenges communicated to the Special Rapporteur was related to food and nutrition. Some internally displaced persons have reported hunger due to limited food distribution. Many among them have been sharing their meals with their families and depending on the support of their host communities. Some families have also been counting on school canteens to feed their children, but with the attacks by Boko Haram against schools and their resulting closures, and because teachers have been leaving and the schools are struggling to cope, they have been unable to provide the food assistance needed.

40. The state of emergency declared in 2015 in the region of Diffa, and extended several times, has led to the strengthening of the military presence by the Niger army and the multinational task force, composed of military units from Benin, Cameroon, Chad, the Niger and Nigeria, whose mandate is to put an end to the conflict fomented by Boko Haram. In addition, the protracted conflict and the measures taken under the state of emergency have constrained livelihood activities, including fishing, the marketing of fish and the cultivation of bell peppers, and also the acquisition of essential fuel and fertilizer for agricultural production. The state of emergency has led to restrictions on the freedom of

movement of persons, as entire areas have been militarized and declared no-go areas for civilians. These measures aimed at combating non-State armed groups have had a devastating effect on the civilian population in Diffa region and on its livelihood.

41. The Special Rapporteur emphasizes that these measures, launched in Diffa under the state of emergency, insofar as they have a disproportionate impact on the well-being of the population, are detrimental to the economic and social rights of the people of the region. The Special Rapporteur urges the Government of the Niger to apply good judgment in the application of such measures, with due regard to the principles of necessity and proportionality. In addition, such measures raise issues under international humanitarian law applicable to the non-international armed conflict in Diffa between government forces and non-State armed groups, including the customary principle according to which "[t]he use of starvation of the civilian population as a method of warfare is prohibited",[6] and that "[i]t is therefore prohibited to attack, destroy, remove or render useless, for that purpose, objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works".[7]

42. In Diffa and Tillabéri regions, access to medical care is severely restricted and the medical infrastructure must immediately be improved. The mobile clinics cannot operate at night because of security considerations and the curfew in place in these two regions, with serious consequences for the most vulnerable internally displaced persons, such as pregnant women. Many of the displaced, in particular women and children, are in need of urgent medical care, and some are severely traumatized by the violence that caused them to flee or the violations from which they have subsequently suffered. The population is in urgent need of psychosocial care, which is largely non-existent. In addition, overcrowding and the lack of hygiene in the sites, especially in urban areas, could contribute to the emergence of epidemics.

43. Three years after the initial displacements in Diffa region, displaced persons are often still living in emergency shelters. The combination of these rudimentary living conditions and temperatures approaching 45 degrees has resulted in several fires. Between December 2016 and March 2017, more than a dozen fires were recorded in displacement sites in the Diffa region. The Special Rapporteur encourages all stakeholders to continue conducting awareness-raising campaigns on the risks associated with the use of gas and fire in the displacement sites.

B. Data collection, civil registration and identity documents

44. The Regional Directorate of Civil Registration and Refugees has carried out a census of the displaced population in Diffa (see para. 17 above). It must be noted, however, that there are some major obstacles to data collection in Diffa region: the high rate of mobility, a significant lack of documentation and the difficulty of distinguishing between internally displaced persons and refugees, owing to their cultural and ethnic similarities and the fact that they are often to be found in the same sites. Data collection is also complicated by an additional obstacle, the lack of access to more remote areas. For security reasons, humanitarian workers only visit the sites along national road 1. Given the dispersal of internally displaced persons, however, their numbers could be much greater. Some areas, such as the islands of Lake Chad, have been inaccessible since 2015 and are heavily militarized. Thus, the number of internally displaced persons put forward by the authorities could exclude some internally displaced persons located in areas beyond the reach of humanitarian assistance. Accordingly, the Special Rapporteur recommends the adoption of a clearly defined methodology for improved data collection.

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[6] J.-M. Henckaerts and L. Doswald-Beck, *Customary International Humanitarian Law*, vol. 1: *Rules*, International Committee of the Red Cross, Cambridge University Press, Cambridge, Rule 53, p. 186, 2006.

[7] Article 14, Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of non-international armed conflicts (Protocol II, 1977).

45. According to the reports on a protection monitoring exercise dating from March 2018, carried out by the local non-governmental organization ANTD, over 8,000 people had been internally displaced in the departments of Banibangou and Ayorou. As the situation in Tillabéri is evolving extremely fast, this figure may already be out of date at the time of the writing of the present report.

46. The Special Rapporteur observes that work has already started on some projects designed to collect better quality data for the purpose of providing a more adequate response, and the projects are already at fairly advanced stages. The Government, supported by UNHCR, is currently conducting a biometric registration exercise in Diffa region, initiated in September–October 2017 and aimed at identifying and registering refugees and internally displaced persons. A draft administrative census of humanitarian development is also planned for September 2018, to be conducted over a 24-month period. This project has been launched by the Government and UNHCR and it will draw on the expertise of a Pakistani registration agency, the National Database and Registration Authority (NADRA), and collect data and statistics on the affected population in Diffa region to ensure the better planning of development activities and provision of an effective humanitarian response. The project is aimed at establishing a viable system that includes refugees and internally displaced persons; it could help to minimize the risk of statelessness, in particular in Diffa region, where 82 per cent of the population have no identity documents or civil status papers, and to enable their freedom of movement as they often have to submit identity documents to pass through checkpoints. The project was agreed upon in April 2017 and formally approved by the Minister of Internal Affairs, Public Security, Decentralization and Customary and Religious Affairs. It will cost an estimated 25 million euros and will be funded by the World Bank. In the context of these various projects, the Special Rapporteur wishes to emphasize that internally displaced persons are citizens of the Niger just like the rest of the population, and that being internally displaced does not afford them a special status. The registration of displaced persons must therefore be guided by the fundamental principle of non-discrimination and must not be detrimental to their protection. In this regard, the Special Rapporteur encourages the relevant institutions to carry out prior risk analyses and evaluations during these exercises. In addition, registration should under no circumstances be a condition for receiving humanitarian assistance: this should be provided only on the basis of persons' needs and rights, and not on the basis of their status.

47. In May 2017, through the Working Group on Protection in Diffa, the Niger has sent the Joint Internally Displaced Person Profiling Service (JIPS) a request for support for a profiling exercise. The Special Rapporteur encourages JIPS and the Niger to continue discussions in order to clarify the scope of the planned exercise, the engagement of stakeholders and potential next steps for practical support.

C. Child protection and access to education

48. The crisis of displacement in Diffa has had a disproportionate impact on children. Forced and early marriage is one of the major problems brought to the Special Rapporteur's attention during her visit to Diffa. Three years after the displacement crisis started, children often represent an economic burden on families, and this seems to have provoked an increase in the number of cases of early marriage, a practice that was already followed in Diffa region. While, thanks to advocacy by protection activists, the average age of marriage has risen from 12 before the crisis to 14 or 16 in certain regions, early and forced marriage remains a recurring practice that puts children at greater risk of sexual abuse and early pregnancy. It has also been reported that girls who had allegedly been raped were often married to their rapists as second or third wives, in order to avoid stigmatization.

49. The Special Rapporteur was also informed of the recruitment of young people by Boko Haram, partly facilitated by the poverty, joblessness and lack of opportunities in Diffa region. There are no data on the number of children recruited by Boko Haram, given the sensitive nature of the problem. In response to a call by the former Governor of Diffa for the denunciation of individuals suspected of being members of Boko Haram, many false accusations have been lodged and this has led to arbitrary arrests and detentions, affecting children in particular. While a number of children have been released as a result of

advocacy by protection activists, others have been in detention since 2015. The Special Rapporteur welcomes the signing of a protocol between the Government of the Niger and the United Nations system regarding children in detention, which makes provision, with the assistance of the United Nations Children's Fund (UNICEF), for the transfer to the child protection services of children who have been captured, trafficked or injured in the operational area. She urges the Government to respect and implement this protocol, and to transfer the children who are still being held in detention to the identified transit and orientation centres.

50. The Special Rapporteur was also informed of the situation of children associated with Boko Haram, who gave themselves up to the authorities in early 2017, following the commitment of local authorities to provide community-based reintegration programmes. More than 200 persons are reported to have given themselves in, mostly children, and are allegedly still being held in a facility in Goudoumaria, almost 200 kilometres from Diffa. This situation raises important concerns, including about the status of such persons. The Special Rapporteur emphasizes that children should be treated as victims and immediately transferred to the transit and orientation centres in Niamey so that they can be reunited with their families in accordance with the principle of the best interests of the child, and the Niger's obligations under the Convention on the Rights of the Child and its optional protocol on the involvement of children in armed conflict, which the Niger has ratified. The Special Rapporteur was informed that the families of some of these children were identified as living in displacement sites, and that the Government was concerned that their return to these sites might expose them to reprisal attacks by members of Boko Haram.

51. In Diffa region, where access to quality education had always been very limited prior to the crisis, the situation had dramatically worsened. The Niger suffers from a lack of qualified teachers and, after an evaluation carried out by the Government in 2017, about 600 teachers in the region failed the tests and were dismissed. Although more children have been enrolled in schools since the onset of the crisis, a number of problems have prevented children from going to school. Recent threats against teachers have led to a shortage of teachers, who fear attacks. Three schools were attacked in 2017, their canteens looted and equipment destroyed. The lack of food and clothing also has an impact on school attendance. Displaced young people with whom the Special Rapporteur met reported that they had no access to secondary education, primarily because of the distance between their displacement sites and the schools. The ban on the growing of bell peppers and the running of motorcycle taxi services has also had a significant impact, as these are activities customarily carried out by young people, many of whom have now joined self-defence groups or militias instead. Priority attention should therefore be given to vocational training and alternative forms of education.

52. At Tillabéri, the Special Rapporteur was informed by the regional directorates of primary and secondary education that 40 per cent of the recently arrived displaced persons were children, only 10 per cent of whom were enrolled in local schools. In addition, many children at Ayorou are said to have been affected psychologically by the conflicts in which they have suffered or been witnesses and require psychological care. The system of school canteens in the region must be strengthened to meet the needs of these children, and this will also enable them to continue their schooling.

D. Sexual and gender-based violence

53. While there were cases of sexual and gender-based violence before the Diffa crisis, displacement has exposed women and girls to greater risks of such violence. According to an assessment of protection conducted by REACH, in partnership with the Working Group on Protection in Diffa,[8] a number of internally displaced women were victims of domestic violence, physical and sexual abuse and some were forced to resort to negative coping

[8] REACH and the Working Group on Protection, *Évaluation de la situation en termes de protection des personnes déplacées à Diffa* (Assessment of the situation in terms of the protection of displaced persons in Diffa), May 2017.

mechanisms such as sex for survival or prostitution, in particular widows and women heads of households. The assessment attributes these violations to the breakdown of social structures and changes in the traditional roles of men as providers of family support. The poor lighting in certain areas of the sites, including the latrines, combined with their remoteness, was also identified by women and girls as a factor exposing them to physical and sexual violence.

54. The Special Rapporteur was informed that fewer than 2 per cent of cases of gender-based violence were brought before the courts. Sexual violence is a hidden epidemic tainted with fear, the stigmatization of victims and the impunity of the perpetrators and exacerbated by the reluctance to report acts of abuse. Immediate and long-term support and reintegration in families and communities must be a priority. Protection workers in Diffa have also informed the Special Rapporteur that there is no legal assistance for cases of sexual and gender-based violence, and a lack of defenders in Diffa region. Communities lack confidence in the judicial system because of social pressures and the stigma associated with public hearings. Greater attention should also be paid to the needs of boys and men in the context of sexual and gender-based violence.

55. The issue of women's sexual and reproductive health was also raised as being of particular concern. In the region of Tillabéri, among the recently displaced persons, the situation of some 300 pregnant women needs urgent attention. The Special Rapporteur was informed that the lack of access to health centres had constrained some women to give birth in difficult conditions, including during their displacement. In addition, in Abala, there have been reports of cases of domestic violence and of early and forced marriage, and allegations of rape and sexual assault. Criticism is also voiced at the lack of training at the local health centre in Abala in the area of gender-based violence.

E. Intercommunity tensions

56. During her visit, the Special Rapporteur was informed by numerous stakeholders of the growing intercommunity tensions in Diffa region. While those tensions existed before the crisis, the current volatile security situation, population movements and limited access to services and resources have exacerbated these conflicts. As part of their protection monitoring activities, certain non-governmental organizations and UNHCR reported 58 incidents of intercommunity tension and conflicts between January and October 2017 in Diffa region.

57. The non-governmental organization Search for Common Ground recently conducted a study of four displacement sites:* Kablewa, Garin Wanzam, Nguigmi and Kindjandi. The study covered 140 persons: refugees, internally displaced persons, host communities, traditional leaders, government officials, security forces, community leaders and representatives of various groups. The interviews revealed that there are three types of recurrent conflict at the sites: resource-related conflicts, conflicts related to crime and banditry, and conflicts between herders and farmers. Only at the Kablewa site, where there is a very large number of internally displaced persons, was it thought that the conflicts between herders and farmers were worse than those related to crime and banditry. Findings showed that those tensions have led to extreme forms of violence, sometimes resulting in death. Gender-based violence is a recurring theme in the four sites, with women suffering more from conflicts than other groups. The Working Group on Protection in Diffa identified similar issues and devised a typology of the different categories of intercommunity conflicts. Where conflicts related to resources and humanitarian assistance are concerned, the working group identified the lack of water points in densely populated villages and other locations and the inadequacy of water infrastructure as causes of tension.

58. Conflicts between displaced populations, host communities and certain ethnic groups have also been identified. A study conducted by the Niger network for non-violent conflict management (GENEVICO) in Kindjandi and Kablewa notes that the Boudoumas

* Search for Common Ground, Working Group on Protection in Diffa and UNHCR, "Niger: conflict scan, 'Kallo Karaye' — On est ensemble, Diffa", October 2017.

and the Kanuri were being stigmatized by the Hausa and the Fulani (or Peul), who suspected them of being affiliated with Boko Haram and responsible for the current situation. The municipalities most affected by conflicts are Nguigmi, Gueskerou, Kablewa and Diffa, which are home to many internally displaced persons facing problems obtaining water and humanitarian assistance, such as the distribution of food and income-generating activities. Three years after the first waves of internal displacement in Diffa region, disputes related to housing, land and property have also been reported in some major sites (Nguigmi, Diffa), where internally displaced persons are occupying plots and areas of land belonging to individuals who are demanding their resettlement so that they can reoccupy or cultivate the land.

F. Housing, land and property

59. A preliminary assessment of the issue of housing, land and property in Diffa, carried out in August 2017 by UNHCR,[10] has made it possible to identify certain trends that should be closely monitored in the coming months. The situation in Diffa region, subdivided into zones with distinct land-tenure systems, is very complex. Almost three years after the initial movements of internally displaced persons, challenges related to housing, land and property are likely to be raised in the course of the discussions on the possible return of these persons. They will undoubtedly have great difficulty reclaiming their homes, land or abandoned property in their areas of origin depending on their situation prior to displacement.

60. In the course of this assessment, the internally displaced persons indicated that the lack of maintenance of their land and homes was a major obstacle to their return. The majority lived in houses made of mud brick, which had deteriorated significantly during their absence. Their land will have been invaded and will need to be cleared with the appropriate equipment. Approximately 50 per cent of the internally displaced persons interviewed indicated that they would prefer to receive assistance to rebuild their homes, while the other half would prefer to receive livelihood support and to deal with their home at a later stage.

61. Many internally displaced persons interviewed that had bought their land or houses held some form of property deed before they were displaced, usually in the form of an affidavit issued by the village chief. While most of them lost this document in the course of their displacement, they were confident that, in the event of complications, the issuance of another affidavit would facilitate their reoccupation of abandoned land.

62. The Special Rapporteur wishes to highlight the situation of particular risk in which women find themselves where housing, land and property are concerned. Although the statutory laws guarantee a woman's right to inherit land from her deceased husband, the displaced persons interviewed in the assessment conducted by UNHCR generally agreed that that was not always respected in practice, especially if the couple had no children. It is likely that the number of widows and single women has increased as a result of the crisis, and this issue should therefore be the subject of specific attention.

63. Lastly, the Special Rapporteur was able to meet with internally displaced persons in an urban setting, in Diffa, who told her that they relied on community support for access to land and that they were sometimes victims of eviction by private owners. These internally displaced persons are thus in an unstable and unpredictable situation, facing a constant threat of being forced out, despite having lived there for extensive periods. The Special Rapporteur encourages all stakeholders to consider the specific situation of these displaced persons attributable to conflicts related to housing, land and property.

[10] UNHCR, "Rapport d'évaluation : problèmes liés aux LTP dans un contexte de déplacement à Diffa" (Assessment report: housing, land and property-related problems in the context of displacement in Diffa), September 2017.

G. Humanitarian access and maintaining civic and humanitarian standards in displacement sites

64. Access to internally displaced persons, in particular in the region of Tillabéri, has also been raised as one of the main humanitarian concerns. Access is limited in particular because of security constraints, difficult road conditions and the presence of mines in some areas of Diffa region.[11] The rainy season could soon worsen road conditions, making it impossible to deliver emergency assistance. In the region of Tillabéri, some internally displaced persons indicated that they did not wish to receive humanitarian assistance in their displacement sites, fearing reprisals by non-State armed groups which might view them as being allied to the humanitarian workers.

65. With the intensification of military operations in the areas of Tillabéri and Diffa and the increasing number of forces present on the ground, including defence and security forces, Operation Barkhane, the Sahel G-5 forces in Tillabéri region and the redeployment of the Chadian contingent in Diffa region, the protection of civilians must be a central priority. The Special Rapporteur was informed that, by the time of her visit, Sahel G-5 had yet to establish a strategy for the protection of civilians. Despite the establishment of a civilian-military coordination mechanism in Diffa between humanitarian entities and the armed forces, stronger coordination must be established as a matter of urgency. Likewise, the first meeting of the civil-military cell for the regions of Tahoua and Tillabéri, held in Niamey on 21 March 2018, must be swiftly followed by the launching of subregional mechanisms. In addition, the principle of distinguishing civilians from combatants must be respected and the protection of civilians should be strengthened and integrated in the security strategy.

66. While recognizing the legitimate security concerns of the Government and its obligation to ensure the security of internally displaced persons in and around sites, the Special Rapporteur wishes to recall to the authorities of the Niger their obligations under international humanitarian and human rights law and the crucial importance of the protection of civilians, in particular, the need to preserve the civilian and humanitarian character of displacement sites and the reception areas. Identification measures should be in keeping with human rights standards, and civilians, including internally displaced persons, must not be subjected to undue restrictions on their freedom of movement, nor be victims of arrest or arbitrary detention.

V. Finding lasting solutions for internally displaced persons

67. In accordance with the framework on durable solutions for internally displaced persons of the Inter-Agency Standing Committee on Post-War and Disaster Reconstruction and Rehabilitation,[12] three durable solutions — namely, safe and dignified return, local integration or settlement elsewhere in the country — shall be offered to displaced persons. The Special Rapporteur reiterates that the participation of displaced persons in these processes and decisions is essential in order to ensure their relevance and sustainability and to enable them to choose the durable solution most appropriate to their situation. A durable solution is a long-term process of gradually diminishing displacement-specific needs, while ensuring that displaced persons enjoy their rights without discrimination related to their displacement. It is a complex process that involves multiple challenges, relating to human rights, humanitarian issues, or questions of development, reconstruction or peacebuilding.

68. An evaluation of November 2017 by REACH, in partnership with the Working Group on Protection in Diffa, shows that the internally displaced persons in 102 locations, of the 113 assessed, intend to remain in the site for three months from the date of

[11] A 2017 study in Diffa region by the National Commission for the Collection and Control of Illicit Weapons established that there were certain areas where mines had been laid.

[12] Inter-Agency Standing Committee and Brookings Institution-University of Bern Project on Internal Displacement, *IASC Framework on Durable Solutions for Internally Displaced Persons*, April 2010.

assessment.[13] This can be explained by the fact that their return is not yet possible, as conditions in many areas of return are precarious and are not conducive to the return of internally displaced persons in the light of the insecurity, the destruction of infrastructure and houses and the lack of basic services, which constitute serious humanitarian and protection risks. The Special Rapporteur stresses that, while it remains an option for the future of displaced persons, return must only take place voluntarily, in conditions of safety and dignity and with appropriate information and assurances of security and support.

69. In Diffa, three years after the first wave of internal displacement, keen interest was expressed by many stakeholders, including the Government and local authorities, in bringing together humanitarian and development approaches with a view to finding sustainable solutions for internally displaced persons. The Special Rapporteur encourages the Government to develop, in consultation with displaced persons themselves and the international community, a framework for durable solutions for internally displaced persons, which would help to clarify the roles and responsibilities of the various actors.

70. The Special Rapporteur notes that, although the situation in Diffa benefited from interventions more extensively supported by development entities, it is essential at the same time to maintain a response that is in keeping with the humanitarian and protection needs of internally displaced persons, given the volatile situation in the region. Any initiative aimed at shifting from assistance to development goals presupposes, and unconditionally requires, that investigations and rigorous evaluations be conducted, with the participation at all stages of displaced persons. Added to which, the integration of transitional phases in the displacement sites, such as the loosening of the current economic constraints associated with the state of emergency, would, among other things, allow internally displaced persons to resume their traditional livelihood activities, thereby alleviating the economic suffocation currently enveloping the region. All internally displaced persons whom the Special Rapporteur met expressed their need to be supported through the establishment of income-generating activities in order to give them access to sustainable activities that enable them to earn a living and make them less dependent on the assistance that they are being given.

71. The Special Rapporteur welcomes the fact that some of the projects under way are aimed at supporting the integration of displaced persons in their displacement areas. Thus, since 2015 the Government has been working with UNHCR on an urbanization project[14] aimed at the development of long-term responses relating to urban habitats, which would assist local communities and internally displaced persons to become self-reliant and self-sufficient. This project, which began in Diffa region, has made plots of land available to more than 2,500 households, including internally displaced persons, refugees and host communities. The second phase of this project in Diffa region, funded by a European Union trust fund, will be aimed at developing an additional 6,000 plots of land and constructing 4,000 sustainable houses over the next three years. The Special Rapporteur welcomes the fact that the World Bank has also provided funding to support the Government of the Niger in its efforts to address the consequences of forced displacement on the development front, and encourages other development entities to invest in the Niger. Finally, the Sustainable Development Goals cannot be achieved in the Niger if internally displaced persons are left behind and are unable to lead a dignified life and enjoy their rights on an equal footing with the rest of the population.

VI. Conclusions and recommendations

72. **The Niger is facing a growing internal displacement crisis in the vicinity of its borders with Mali and Nigeria. These two situations, although distinct, require constant and renewed attention. Despite a lack of resources and capacity, the Special Rapporteur would like to commend the efforts by the Government of the Niger to**

[13] REACH and the Working Group on Protection, *Évaluation finale de la situation en termes de protection des populations déplacées dans la région de Diffa* (Final assessment of the situation in terms of the protection of displaced populations in Diffa region), May 2017.

[14] See www.unhcr.org/niger-urbanization-project.html.

respond, to the extent possible, to this crisis. This reflects the Government's commitment to improving its response to ensure that internally displaced persons can find durable solutions. More concerted efforts are needed however, at both the institutional and the legislative levels. The Government of the Niger must learn lessons from the situation in Diffa and urgently develop a strategy for the comprehensive protection of and assistance to internally displaced persons.

73. **Informed by the Guiding Principles on Internal Displacement and the conceptual framework on durable solutions for internally displaced persons of the Inter-Agency Standing Committee, the Special Rapporteur puts forward the following recommendations.**

74. **The Special Rapporteur recommends that the Government of the Niger:**

(a) **Develop and adopt, as a matter of urgency, a comprehensive strategy for the protection of and assistance to internally displaced persons, including in the emerging situation in Tillabéri;**

(b) **Appoint a single focal point responsible for the issue of internal displacement, with responsibility for the overall coordination of response measures for internally displaced persons;**

(c) **Mobilize financial, human and material resources in order to provide a coherent, preventive and effective response to the immediate and structural causes of the prevailing security and humanitarian crisis;**

(d) **Provide the necessary resources to the steering committee for the drafting of a bill on internal displacement so that the bill may be submitted as soon as possible to the National Assembly for adoption;**

(e) **Strengthen the resources and capacities of the local authorities and the National Human Rights Commission so that they can work towards the attainment of their goals, including in remote areas;**

(f) **Strengthen access to justice in remote areas, including in Diffa, by introducing a legal aid system available to internally displaced persons who wish to take legal action;**

(g) **To initiate, ex officio and systematically, investigations and prosecutions of alleged perpetrators of serious violations of human rights or humanitarian law, including arbitrary arrests, disappearances, or cases of sexual and gender-based violence;**

(h) **Strengthen the capacity of members of the defence and security forces on standards relating to human rights and international humanitarian law, and protection standards, including through pre-deployment training;**

(i) **Work with the defence and security forces and humanitarian entities to strengthen civil-military coordination in order to protect civilians and to maintain the civilian and humanitarian character of sites for internally displaced persons and reception areas;**

(j) **Conduct a profiling exercise to generate a reliable estimate of the number of internally displaced persons in the Niger and carry out an intention survey among these persons to ensure the better targeting of responses to their needs, including durable solutions;**

(k) **Ensure that all internally displaced persons have access to civil status certificates through simplified procedures;**

(l) **Enable the empowerment of internally displaced persons, for example through temporary access to land in their displacement area and to income-generating activities;**

(m) **Develop, in consultation with internally displaced persons and the international community, a framework for durable solutions, which clarifies the roles and responsibilities of different stakeholders;**

(n) Ease the measures imposed under the state of emergency in Diffa, which are unduly impeding the freedom of movement of internally displaced persons and encroaching on their economic and social rights.

75. **The Special Rapporteur recommends that the international community, donors, United Nations agencies and other humanitarian and development entities:**

(a) Pay greater attention to the complex situation in the Niger and ensure that the situation of internal displacement in the Niger remains at the forefront of the international agenda;

(b) Establish a multidisciplinary and multi-organizational team to support the Government and provide technical assistance with a view to ensuring an appropriate response to the current displacement situation in Tillabéri;

(c) Mobilize and fund in its entirety the 2018 humanitarian response plan for all clusters, including the Working Group on Protection;

(d) Ensure the inclusion of host communities, which have paid a heavy economic price in the displacement situation, in any humanitarian assistance project or any development initiative;

(e) Promote the engagement of development entities and assist the Government in the implementation of durable solutions, including through cash-based initiatives, access to microcredit, vocational training and income-generating activities, and their inclusion in the national development plan.

76. **The Special Rapporteur recommends that:**

(a) The United Nations country team for humanitarian action give priority to the development of a protection strategy;

(b) States involved in the Sahel G-5 force urgently develop a strategy for the protection of civilians, respect the principles of international humanitarian law and human rights, and encourage their application in practice through training for military personnel.